

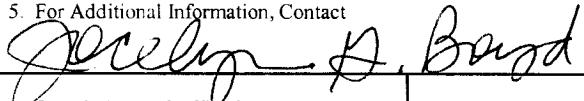
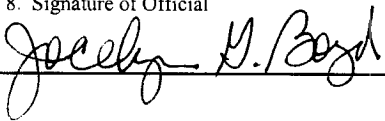
# DOCUMENT TRANSMITTAL FORM

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Agency Name Public Service Commission	1. Chapter Number 103	2. Date of Filing June 13, 2008
3. Regulation Number 26 S.C. Code Ann. Regs. 103-114 26 S.C. Code Ann. Regs. 103-133(7)(A)(7) 26 S.C. Code Ann. Regs. 103-199.5 26 S.C. Code Ann. Regs. 103-805	4. Subject of Regulation Class "E" Motor Carrier – Certificate of Public Convenience and Necessity; Drug Testing for Passenger Carrier Drivers; Adjustment of Bills; and Representation	
5. Statutory Authority  S.C. Code Ann. Section 58-3-140 (Supp. 2007)		

6. Type of Filing

☐ NOTICE OF GENERAL PUBLIC INTEREST  
☐ NOTICE OF DRAFTING  
☒ PROPOSED REGULATION  
☐ EMERGENCY REGULATION  
☐ FINAL REGULATION FOR GENERAL ASSEMBLY REVIEW  
☐ RESUBMISSION OF WITHDRAWN REGULATION FOR GENERAL ASSEMBLY REVIEW  
☐ FINAL REGULATION EXEMPT FROM GENERAL ASSEMBLY REVIEW

5. For Additional Information, Contact 		6. Telephone Number 896-5100
7. Typed Name of Official Jocelyn G. Boyd	8. Signature of Official 	9. Date June 13, 2008

SOUTH CAROLINA STATE REGISTER USE ONLY	
10. For publication in SR Volume ____ Issue ____  Document Number ____  Verification: ____	<b>FILED</b> OFFICIAL FILING STAMP JUN 13 2008 S.C. LEGISLATIVE COUNCIL

Document No. \_\_\_\_\_  
**PUBLIC SERVICE COMMISSION OF SOUTH CAROLINA**  
**CHAPTER 103**  
Statutory Authority: S.C. Code Ann. Section 58-3-140 (Supp. 2007)

26 S.C. Code Ann. Regs. 103-114. Class "E" Motor Carrier – Certificate of Public Convenience and Necessity  
26 S.C. Code Ann. Regs. 103-133(7)(A)(7). Drug Testing for Passenger Carrier Drivers  
26 S.C. Code Ann. Regs. 103-199.5. Adjustment of Bills  
26 S.C. Code Ann. Regs. 103-805. Representation

**Preamble:**

The Public Service Commission of South Carolina (Commission) proposes to amend its regulations related to transportation utilities by referencing the transportation of goods in portable storage units or containers within the definition of Class E Motor Carriers; requiring drug testing for passenger carrier drivers; and including provisions governing the adjustment of bills pertaining to household goods movers' services. Additionally, the Commission seeks to create a regulation that governs the representation of parties before the Commission.

**Section-by-Section Discussion**

103-114. Class "E" Motor Carrier – Certificate of Public Convenience and Necessity. This regulation is amended to add that a Class "E" Motor Carrier includes, but is not limited to, a common carrier of property (household goods or hazardous waste for disposal) by motor vehicle by carrying goods in a portable storage unit or container.

103-133(7)(A)(7). Drug Testing for Passenger Carrier Drivers. This regulation is added to implement drug testing for passenger carrier drivers. The drug testing includes mandatory pre-employment, post-accident, and random drug screens.

103-199.5. Adjustment of Bills. This new regulation is proposed to provide for adjustment of bills related to household goods motor carriers and to govern adjustment of bills when customers are inadvertently overcharged, when customers are inadvertently undercharged, and when customers are willfully overcharged.

103-805. Representation. This new regulation is proposed to address representation of a party or parties who appear before the Commission.

**Notice of Public Hearing and Opportunity for Public Comment:**

Interested persons may submit written comments to the Public Service Commission, Docketing Department, 101 Executive Center Drive, Columbia, South Carolina 29210. Please reference Docket Number 2007-445-A. To be considered, comments must be received no later than 4:45 p.m. on August 1, 2008. Interested members of the public and the regulated community are invited to make oral or written comments on the proposed regulation at a public hearing to be conducted by the Public Service Commission on **September 10, 2008 at 10:30 a.m.** in the Commission's Hearing Room, 101 Executive Center Drive, Columbia, South Carolina 29210.

**Preliminary Fiscal Impact Statement:**

There will be no increased costs to the State or its political subdivisions.

**Statement of Need and Reasonableness:**

This statement of need and reasonableness was determined pursuant to S.C. Code Ann. Section 1-23-115(C)(1) through (3) and (9) through (11).

**DESCRIPTION OF REGULATIONS:**

26 S.C. Code Ann. Regs. 103-114. Class "E" Motor Carrier – Certificate of Public Convenience and Necessity.

26 S.C. Code Ann. Regs. 103-133(7)(A)(7). Drug Testing for Passenger Carrier Drivers.

26 S.C. Code Ann. Regs. 103-199.5. Adjustment of Bills.

26 S.C. Code Ann. Regs. 103-805. Representation.

Purpose: The purpose of the revisions to 26 S.C. Code Ann. Regs. 103-114 is to include the transportation of household goods in a portable storage unit or container within the scope of a Class "E" Motor Carrier. Household goods can be transported via portable storage units or containers and the Commission seeks to update its regulations to reflect this practice. Next, the Commission, in an effort to protect the public safety and welfare, seeks to implement required drug testing for passenger carrier drivers (26 S.C. Code Ann. Regs. 103-133(7)(A)(7)). The purpose of 26 S.C. Code Ann. Regs. 103-199.5 is to provide rules for the adjustment of bills when a household goods customer is inadvertently overcharged or undercharged or willfully overcharged by a household goods carrier. Finally, the Commission hears cases related to jurisdictional utilities, thus parties appear before the Commission to present these cases. The purpose of 26 S.C. Code Ann. Regs. 103-805 is to provide guidelines to parties regarding legal representation.

Legal Authority: S.C. Code Ann. Section 58-3-140 (Supp. 2007)

Plan for Implementation: The proposed amendments will take effect upon approval by the General Assembly and publication in the *State Register*.

**DETERMINATION OF NEED AND REASONABLENESS OF THE PROPOSED REGULATION BASED ON ALL FACTORS HEREIN AND EXPECTED BENEFITS:**

The inclusion of the transportation of household goods in a portable storage unit or container within the scope of the Class "E" Motor Carrier definition is necessary to clarify that these carriers are subject to the jurisdiction of the Commission and to provide the public with notice of these carrier's Commission and the Office of Regulatory Staff-related duties and responsibilities. In an effort to protect the public safety and welfare, the Commission proposes to implement a regulation that requires drug testing for passenger carrier drivers. Additionally, to eliminate confusion and uncertainty when a household goods carrier has inadvertently or willfully overcharged or undercharged a customer, the proposed regulation expedites the resolution of complaints regarding bills to the extent that it provides guidelines to the motor carrier and the customer for the issuance of refunds or the recovery of deficient payments. The Commission needs a regulation governing legal representation regarding cases pending before the Commission so that entities involved are informed about the procedural and substantive issues related to legal representatives.

**DETERMINATION OF COSTS AND BENEFITS:**

Although costs related to amending 26 S.C. Code Ann. Regs. 103-114, 103-133(7)(A)(7), 103-199.5, and 103-805 are minimal, benefits include the amendment of a regulation that includes a motor carrier that is within the Commission's jurisdiction; and the addition of regulations that protect the welfare and safety of the public; reduce confusion related to payment disputes that may arise; and provide rules for legal representation before the Commission.

UNCERTAINTIES OF ESTIMATES:

None.

EFFECT ON ENVIRONMENT AND PUBLIC HEALTH:

None.

DETRIMENTAL EFFECT ON THE ENVIRONMENT AND PUBLIC HEALTH IF THE REGULATION IS NOT IMPLEMENTED:

The proposed regulations will have no detrimental effect on the environment and public health if the regulations are not implemented.

**Statement of Rationale:** The bases for the proposed regulations include a specific reference to motor carriers that are within the Commission's jurisdiction; protecting the public welfare and safety by requiring drug testing for passenger carrier drivers; minimizing conflict regarding discrepancies on household goods motor carriers' bills by providing guidelines for the adjustment of bills; and providing the public with notice regarding legal representation in cases before the Commission. There was no scientific or technical basis relied upon in the development of these regulations. It is the professional judgment of the Commission Staff that these regulations are needed in the interest of judicial economy and to provide the public with adequate notice of the Commission's procedures.

**Text:**

103-114. Class "E" Motor Carrier – Certificate of Public Convenience and Necessity. A Class E motor carrier is a common carrier of property (household goods or hazardous waste for disposal) by motor vehicle including, but not limited to, a motor vehicle containing goods packed by a packing service or by carrying goods in a portable storage unit or container. A Class E motor carrier must obtain either a Certificate of PC&N or FWA from the commission.

103-133 (7)(A)(7). Drug Testing for Passenger Carrier Drivers. All carriers must implement a verifiable drug testing program for drivers. Pre-employment, post-accident, and random drug screens shall be mandatory.

The selection of drivers for random drug testing shall be made by a scientifically valid method, such as a random number table or a computer-based random number generator that is matched with drivers' Social Security numbers, payroll identification numbers, or other comparable identifying numbers. Each driver selected for random drug testing under the selection process used, shall have an equal chance of being tested each time selections are made. Further, each driver selected for drug testing shall be tested during the selection period.

103-199.5. Adjustment of Bills.

If it is found that a household goods motor carrier has directly or indirectly, by any device whatsoever, demanded, charged, collected or received from any customer a greater or lesser compensation for any service rendered by such carrier than that prescribed in the schedules of such carrier applicable thereto, then filed in the manner provided in Title 58 of the South Carolina Code of Laws; or if it is found that any customer has received or accepted any service from a

carrier for a compensation greater or lesser than that prescribed in such schedules; or if, for any reason, billing error has resulted in a greater or lesser charge than that incurred by the customer for the actual service rendered, then the method of adjustment for such overcharge or undercharge shall be provided by the following:

1. Customer Inadvertently Overcharged. If the carrier has inadvertently overcharged a customer as a result of a misapplied schedule or any other human or machine error, the carrier shall at the customer's option credit or refund the excess amount paid by that customer or credit the amount billed.
2. Customer Inadvertently Undercharged. If the carrier has undercharged any customer as a result of a misapplied schedule, or any human or machine error, then the carrier may recover the deficient amount. The customer shall be allowed to pay the deficient amount, in equal installments over a period of six months.
3. Customer Willfully Overcharged. If the utility has willfully overcharged any customer, the carrier shall refund the difference, plus interest, as prescribed by the commission.
4. Customers and Carriers shall have two (2) years from the date of the transaction in question in which to apply for an adjustment as provided in this Regulation.

#### 103-805. Representation.

A. Parties and Their Representatives. Parties in a contested case have the right to participate or to be represented in all hearings or pre-hearing conferences related to their case. Any party may be represented by an attorney admitted to practice in South Carolina, either permanently or pro hac vice. Any entity other than an individual must be represented by an attorney authorized to practice law in South Carolina. No one shall be permitted to represent a party where such representation would constitute the unauthorized practice of law. A party proceeding without legal representation shall remain fully responsible for compliance with these Rules and the Administrative Procedures Act. This regulation shall not be construed to permit law student practice except to the extent authorized by Rule 401 of the South Carolina Appellate Court Rules.

B. Notice of Appearance. An attorney or other person authorized to represent a party before the commission pursuant to this regulation shall file with the commission a notice of appearance when retained or authorized to represent a party after commencement of a case.

C. Motion to Withdraw from Representation. An attorney or other person authorized to represent a party before the commission pursuant to this regulation must file a written motion to withdraw from representation of a party or from participation in proceedings.

D. Waiver of Regulation. The commission may waive the application of Regulation 103-805, upon receipt of a written request, if the granting of such waiver is in the interest of justice and judicial economy.